

NOTE: This order is nonprecedential.

**United States Court of Appeals
for the Federal Circuit**

**BAYER CROPSCIENCE AG, BAYER
CROPSCIENCE NV,**
Plaintiffs-Appellees

v.

**DOW AGROSCIENCES LLC, MYCOGEN PLANT
SCIENCE, INC., AGRIGENETICS, INC., dba Myco-
gen Seeds, LLC, PHYTOGEN SEED COMPANY,
LLC,**
Defendants-Appellants

2016-1530, -1623

Appeals from the United States District Court for the
Eastern District of Virginia in No. 2:12-cv-00047-RAJ-
RJK, Judge Raymond Alvin Jackson.

ON MOTION

Before WALLACH, *Circuit Judge*.

O R D E R

Appellants move to stay the appeals pending comple-
tion of four related reexaminations before the Patent Trial
and Appeal Board. Appellees oppose the motion. Appel-

lants also move to suspend the existing briefing schedule and issue a separate schedule for briefing based on Appellees' questioning of the court's jurisdiction.

Appellees filed a complaint against Appellants in the district court, alleging infringement of the same patents that are being reexamined before the Board. Pursuant to a license agreement, the district court directed the parties to initiate arbitration proceedings. Years later while arbitration was ongoing, Appellants filed the pending reexaminations. The arbitration panel awarded Appellees damages for breach of the license agreement and for patent infringement. The district court subsequently confirmed the award and issued final judgment. In their response to the motion to stay, Appellees argue that "the reexaminations are not even close to being final" and also question whether this case should be dismissed or transferred for lack of jurisdiction.

The power of this court to stay proceedings is incidental to our inherent power to control the disposition of cases on our docket. *See Landis v. N. Am. Co.*, 299 U.S. 248, 254 (1936). Here, the court cannot say Appellants have shown that staying proceedings is warranted. The court also deems it the better course to deny the motion to set briefing without prejudice to Appellees raising any jurisdictional argument in the merits briefs.

Accordingly,

IT IS ORDERED THAT:

The motions are denied. Appellants' opening brief is due within 40 days from the date of filing of this order.

FOR THE COURT

/s/ Daniel E. O'Toole
Daniel E. O'Toole
Clerk of Court

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